

**PLANNING INSPECTORATE
REFERENCE**

APP/V1505/A/08/2063126/NWF

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY

**THE DALE FARM HOUSING ASSOCIATION
AGAINST THE COUNCIL'S REFUSAL TO
GRANT PLANNING PERMISSION FOR THE
CHANGE IN THE USE OF LAND TO THE
NORTH OF TERMINUS DRIVE PITSEA
BASILDON ESSEX TO A FIVE PITCH
RESIDENTIAL GYPSY CARAVAN SITE**

LOCAL PUBLIC PLANNING INQUIRY

**THE COUNCIL'S
STATEMENT OF SUBMISSIONS**

FEBRUARY 2008



- 1.6 The Council in presenting its case will also deal with the appellant's interpretation of National Policy Guidance and Human Rights amongst other things.

2.0 LOCATION AND DESCRIPTION OF THE APPEAL SITE AND SURROUNDING AREA

- 2.1 The appeal site has an area of approximately 0.15 hectares and is located within a triangular area of level scrubland which is surrounded by transport infrastructure. It is situated to the north of Terminus Drive an unmade track which is shared with public footpath FP136 which provides pedestrian access from The Meads Vange to Pitsea Hall Lane and Pitsea Railway Station. Footpath 136 also gives access to a further footpath that leads south over the railway lines on to the marshes beyond. Terminus Drive is a private track over which vehicular traffic has no right of access. The appeal site is therefore land locked with no vehicular right of access from the public highway. The nearest accessible public highway is Pitsea Hall Lane which is situated to the east of the appeal site.
- 2.2 To the north and west of the appeal site is the elevated section A13 Pitsea by-pass and fly-over. Beyond the by-pass is the Chestnuts housing estate which consists of a number of three and four-storey high apartment blocks. A 1.5 metre high earth bunding has been placed under the entire length of the elevated section of the by-pass to restrict access to the appeal site and surrounding land from the housing estate. Located to the south of the appeal site is a redundant railway goods yard. Which is earmarked for use as a trans-shipment depository for the spoil that the construction of tunnelling associated with the Cross Rail project will generate. Located beyond the yard is the Tilbury branch of the London Fenchurch Street to Shoeburyness railway line and the marches that form the northern shoreline of the Thames Estuary. To the east is a security fenced storage compound and station car park, beyond which is the busy Basildon branch of the London Fenchurch Street to Shoeburyness railway line.
- 2.3 Location plans and aerial photographs will be produced as documents BC1 and BC2

3.0 PLANNING HISTORY

- 3.1 The appellant suggests that the site may have been used for military purposes during the Second World War. The Council has no records to suggest that the land within which the appeal site is located was put to any particular military use.
- 3.2 The appellant's also suggest that the land has historically been used by travellers as a camping area. However the Council has no record of ever pursuing formal action in respect unauthorised camping. The land it is known has been owned by the Commission for the New Towns for considerable period of time and any unauthorised camping would have been dealt with by the landowners.
- 3.3 The Council's planning records show that two applications have been made in relation to the proposed development of the land.

- 5.2 Reference will also be made to PPG 4, the draft guidance in PPS4, PPS1, PPS3, PPS12 and Circular 11/95

6.0 THE COUNCIL'S CASE

- 6.1 The Council will in presenting its case, make the point that section 38 of The Planning and Compensation Act 2004 and the advice given in PPS1 requires that the determination of any planning application must be made in accordance with the Development Plan unless material considerations indicate otherwise. In this case it will be argued that the development proposed by the application the subject of this appeal is not in accordance with the Development Plan and supporting Government guidance to be found in RPG9, PPG4, PPS3, PPS12 and draft guidance PPS4
- 6.2 It is in any assessment of the current appeal necessary to consider whether or not the grant of planning permission would accord with the Development Plan and supporting national guidance. Should it be found not to accord, then consideration must be given as to whether there are any material considerations of sufficient weight to indicate that, nonetheless, planning permission ought to be granted. This approach reflects the advice given in paragraphs 10 to 16 of "The Planning System: General Principles.
- 6.3 The Council will argue that there are overwhelming material considerations that weight in favour of a decision in accordance with the development plan.
- 6.4 The Secretary of State for Transport issued a "Safeguarding Direction" on the 24th January 2008 in respect of land at Terminus Drive. It is unclear whether it includes the appeal site. This direction requires the Local Planning Authority to notify the Safeguarding Co-ordinators at Cross London Rail Links Limited and the Major Projects Directorate at the Department for Transport of any development proposals or pending appeals that may impinge upon Cross Rails proposed use of the land. This has been done and no comment at the time of submitting this statement has been received.
- 6.5 The Council will assert that the development proposed by Cross Rail will lead to unacceptable levels of noise, air and light pollution. These pollutants will impact on the amenities of any future occupier should planning permission be granted. This therefore renders the appeal site unsuitable for residential development as such development should not be located adjacent to such un-neighbourly activity.
- 6.6 The Cross Rail project is of national importance as it will bring about the long awaited linking of East Anglian rail services with those of the Thames Valley and beyond. This will clearly have economic benefits for the wider community and weigh in the favour of a decision in accordance with the development plan and National Policy Guidance.
- 6.7 The Council will argue that the grant of planning permission would result in the blighting of the surrounding land which would restrict its future commercial development to the detriment of local economic opportunity.

7.0 DOCUMENTS

- 7.1 The Council will refer, amongst other things, to the following documents. The Council reserves the right to produce other documents as may be necessary before or during the Inquiry. The documents referred to may be produced by the Council at the Inquiry and may be inspected by appointment at the Planning Services Reception, The Basildon Centre, St Martin's Square, Basildon, Essex SS14 1DL between 9.30am – 4.30pm Monday to Friday.

BC1 Location Plans

BC2 Aerial Photographs

BC3 English Partnerships Letter dated 19th March 2007

BC4 Planning Application, Plans and Background papers

BC5 Committee report and minute of decision

BC6 Development Plan Extracts

BC7 RPG9 Extracts

BC8 PPS1 Extracts

BC9 PPG4 and Draft PPS4 Extracts

BC10 PPS3 Extracts

BC11 PPS12 Extracts

BC12 Circular 01/2006

BC13 Circular 11/95

BC14 Safeguard Directive

BC15 Cross Rail development proposals and environmental impact assessments

Produced on the 25th February 2008.



Manager of Planning Enforcement

Direct Line: 020 3023 9194

Our Ref: rgtsgm3347

Your Ref: APP/V1505/A/08/2063126/NWF NC/JM/07/00393/FULL

Date: 20th February 2008

Cross London Rail Links Limited
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London SW1E 5BH
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Fax: 020 3023 9101
Website: www.crossrail.co.uk



The Planning Inspectorate
3/16 Eagle
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN



Dear Sirs,

TOWN AND COUNTRY PLANNING ACT 1990 - LAND NORTH OF TERMINUS DRIVE - PITSEA - BASILDON - SECTION 78 PLANNING APPEAL AGAINST THE COUNCIL'S REFUSAL TO GRANT PLANNING PERMISSION – Ref : APP/V1505/A/08/2063126/NWF

I refer to the letter from Basildon Council dated the 18th February 2008 giving notice of an appeal against their refusal to grant planning permission for the change of use of land at the above site to a residential Gypsy Caravan site consisting of five pitches and associated infrastructure.

Cross London Rail Links Limited (CLRL) would wish to draw to the attention of the Inspector dealing with this appeal, the following:-

- The site lies partly within the limits of safeguarding as defined in the Safeguarding Direction issued by the Secretary of State for Transport on the 24th January 2008. Please see attached map extract. The site was also included within the safeguarding limits in the Direction issued by the Secretary of State on the 22nd February 2005.
- The land identified in the planning application is required by Crossrail for the development of a rail siding for unloading excavated material from road to rail for final delivery to the landfill site at Pitsea. The approval of this application would therefore seriously prejudice the ability of CLRL to deliver the Crossrail scheme in the manner set out in the Environmental Statement. Please see attached map extract.
- Unfortunately the planning application was not referred to CLRL by Basildon Council as it should have been under the provisions of the 2005 Safeguarding Direction referred to above.
- It is likely that if the application had been properly referred CLRL would have recommended that the application be refused.



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Registered office Portland House, Bressenden Place, London SW1E 5BH
Cross London Rail Links Limited. Registered in England and Wales No. 4212657



In the light of the above, CLRL would respectfully request that this appeal should be dismissed. If the Planning Inspectorate is minded to allow the appeal CLRL would draw attention to paragraph 5 of the January 2008 Direction which requires referral of an application to the Secretary of State if approval is being recommended contrary to the recommendation of CLRL. See attached extract. CLRL is not sure how this provision might come into play in planning appeal circumstances but nevertheless consider that this clause should be brought to the attention of the Inspector.

Please let me know if you require any further information and I will do my best to assist. I am copying this letter to Basildon Council for their information.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Roger Tuffley', written in a cursive style.

Roger Tuffley (Safeguarding Manager)

3. (a) The exempted category of development referred to in paragraph 1 above is any development which is—
- (i) within that part of the zone specified in paragraph 2 above which lies within the limits shown on the plans 3 to 35 and is not shown shaded on those plans; and
 - (ii) consists only of an alteration to a building of a sort referred to in sub-paragraph (b) below; and
 - (iii) does not involve, and is not likely to involve, any construction, engineering or other operations below existing ground level.
- (b) A building to which sub-paragraph (a) applies is a hereditament which falls within the scope of section 149(3) of the Town and Country Planning Act 1990^(b) and which, after development, would remain within the scope of that section of that Act.
4. (a) Subject to sub-paragraph (b) below, before granting planning permission on any application to which these Directions apply, a local planning authority shall consult Cross London Rail Links Limited.
- (b) The requirement to consult does not apply where—
- (i) the development concerned lies within that part of the zone specified in paragraph 2 above which lies within the limits shown on the plans 3 to 35 and is not within any area shown shaded on those plans; and
 - (ii) the local planning authority proposes to grant permission to which a condition is to be attached precluding any building, engineering or other operation deeper than 3 metres below existing ground level.

Where a local planning authority is required by paragraph 4 above to consult Cross London Rail Links Limited, they shall not grant planning permission on the application otherwise than to give effect to the recommendation of Cross London Rail Links Limited—

- (a) unless they have delivered to the Secretary of State for Transport the material specified in paragraph 6 below; and
 - (b) until the expiry of a period of 21 days from the date from which that material was delivered to the Secretary of State.
6. The material referred to in paragraph 5 above is—
- (a) a copy of the application together with a copy of any plans or documents submitted with it;
 - (b) a copy of the response of Cross London Rail Links Limited to consultation by the authority in pursuance of paragraph 4 above;

^(b) 1990 c.8



DISTRICT OF BASILDON



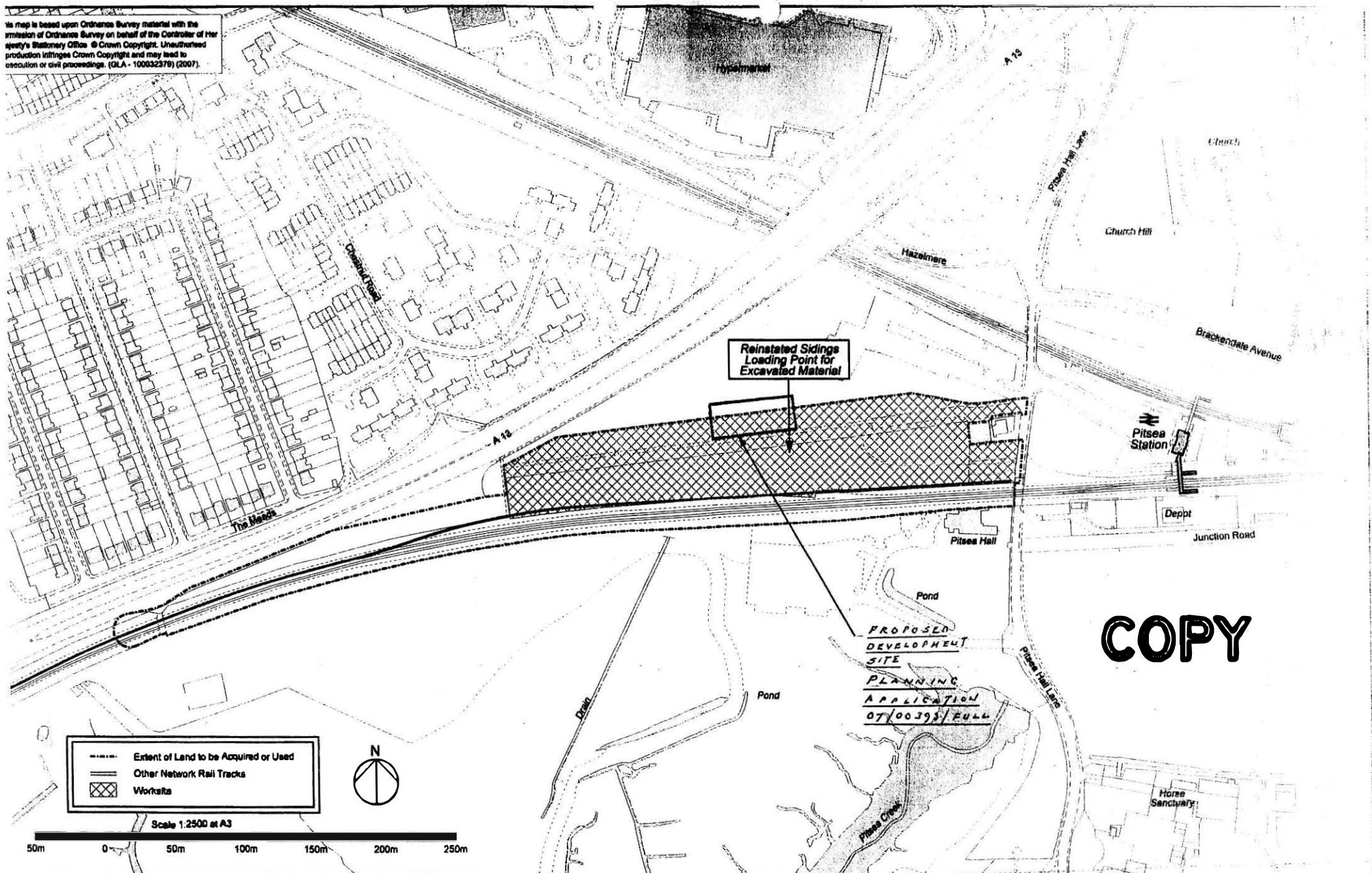
CROSSRAIL
SAFEGUARDING DIRECTION
SHEET NO. 235

Cross London from Lons Die
Portland House
Brixton Road
London SW1E 5BH

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COPY



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PITSEA SIDINGS CROSSRAIL PROPOSALS

This plan is indicative of Cross London Rail Limited proposals for the construction activity and completed works in this area. The size, detail and position of works are subject to alteration as a result of consultation, parliamentary and planning scrutiny.

SHEET
120a

October 2007

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